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VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Petition for Waiver of Allied Wireless Communications Corporation*
WC Docket No. 09-197
CC Docket No. 96-45
WC Docket No. 08-71
Written Ex Parte Communication

Dear Ms. Dortch:

Public Service Telephone Company (PST), by its attorneys, hereby responds to the various ex parte communications filed by Allied Wireless Communications Corporation (Allied) in support of its request for a waiver of sections 54.313, 54.314, 54.307(d), 54.809(a) and 54.904(d) of the FCC's rules, which require eligible telecommunications carriers (ETCs) to meet certain filing deadlines in order to receive federal universal service support. In the various ex parte filings made by Allied, Allied fails to mention the two facts, entirely within its control, which necessitated its request for waiver. Specifically, Allied asked the Georgia Public Service Commission (Georgia PSC) on August 9, 2010, to grant its ETC designation retroactively to April 26, 2010. However, in order to receive federal universal service support for an ETC designation effective April 26, 2010, pursuant to the FCC's rules, Allied was required to make various filings with the FCC prior to August 9, 2010, which Allied failed to do. Therefore, it is clear that the conflict with the FCC's rules was created by Allied's own actions.¹

¹ In its Written Ex Parte Communication dated February 4, 2011, Allied states that "[t]he reason

PST also responds to various arguments made in Allied's Written Ex Parte Communication dated March 10, 2011 (March 10 Written Ex Parte) and its Ex Parte Letter dated January 8, 2011 (January 8 Ex Parte Letter). In its March 10 Written Ex Parte, Allied argues that relevant FCC precedent supports grant of its waiver request and that "Bureau denials of filing deadline waiver requests have come in circumstances that are not present here." (March 10 Written Ex Parte at 2). On the contrary, it was Allied's untimely request for retroactive ETC designation from the Georgia PSC that directly resulted in its inability to meet the FCC's filing deadlines, and this circumstance is exactly the type that led to the Bureau denying waiver requests in the cases cited by Allied. Allied also attempts to distinguish its circumstance from the cases cited on the basis that in the cited cases, "the ETCs neglected to meet deadlines that clearly were applicable to them, offered no good cause for missing the deadline, and/or did not cure their failure promptly." (March 10 Written Ex Parte at 4). Allied has never explained why it failed to request retroactive ETC designation from the Georgia PSC until August 9, 2010, even though it filed its ETC petition on April 15, 2010 and began providing service on April 26, 2010. Moreover, since it was Allied that requested ETC designation effective April 26, 2010, it should have been clear to Allied that the FCC's rules required it to meet certain filing deadlines within 60 days of that date.

Allied also argues that it "cannot be said to have failed to meet an applicable deadline at all because (1) the Georgia PSC had not yet granted [its] ETC designation[s] by the June 25, 2010 date that strict application of the rule would impose on them, and (2) the Commission does not require carriers to file estimated line counts prior to obtaining ETC designations." (March 10 Written Ex Parte at 5). This is a new spin on Allied's old argument that it was unable to meet the FCC's filing deadlines because the Georgia PSC had not granted its request. In its Notice of Oral Ex Parte Communication dated December 23, 2010, Allied even claims that one of the circumstances that gave rise to the pending waiver petition was the Georgia PSC's decision to make Allied's ETC designation effective as of April 26, 2010. (December 23 Notice at 2). As demonstrated, Allied requested retroactive ETC designation effective April 26, 2010 and it did not do so until August 9, 2010. The June 25, 2010, filing deadline resulted from the April 26, 2010 effective date. The Georgia PSC clearly could not grant a request before it was made and, therefore, Allied's argument should be summarily rejected. Further, while it may be true that the FCC does not require ETCs to file estimated line counts prior to obtaining ETC designations, the FCC clearly allows such filings and in this case it was necessary for Allied to effectively carry out its scheme to receive universal service support for a period prior to state commission action on its ETC designation request. Putting aside the question as to whether retroactive ETC designations are allowed or appropriate under the Act, and PST believes they are not, Allied simply did not pay close attention to the FCC's rules and filing deadlines to effectively carry out its scheme. In this light, Allied's failure to comply with the FCC's filing deadlines is no different than that of any other entity that fails to act in a timely manner and misses a universal service filing deadline.

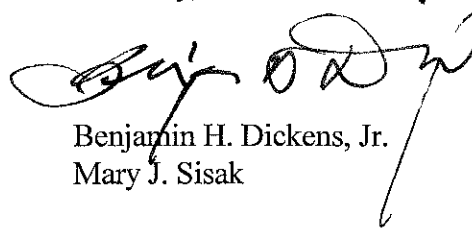
for the requested waivers is straight forward, namely; Allied Wireless's and Georgia 8's ETC designations were granted after the applicable filing deadlines." In light of the fact that Allied did not request retroactive ETC designation until after the applicable filing deadlines, this statement is inaccurate.

In its January 8 Ex Parte Letter, Allied provided a copy of the Georgia PSC's Order Denying Public Service Telephone Company's Request for Reconsideration of Order Denying Intervention, issued on December 22, 2010, to support its position that the Georgia PSC addressed PST's claim that the Georgia Commission should not approve Allied's application with a retroactive effective date and concluded that unique circumstances supported a grant of Allied's request for retroactive ETC designation. In the Order, the Georgia PSC states that its "prior orders have fully addressed this issue by explaining how the unique circumstances surrounding Allied's request support the retroactive effective date." (Order at 4). The unique circumstances cited by the Georgia PSC were that Allied acquired divested assets from Alltel and Alltel had been an ETC; that interruption in universal service support would diminish the investment Allied could make in the service area; and that in another Allied matter, the FCC stated it would not address the merits of a retroactive ETC request, "but that the decision should not impact pending state proceedings regarding the appropriate effective date of ETC designation." (Order at 4). In the January 8 Ex Parte Letter, Allied argues that grant of its waiver request would "honor the Georgia PSC's designation order." (January 8 Ex Parte Letter at 2).

The analysis made by a state commission to designate an entity as an ETC is different than the analysis that the FCC must make to grant a waiver of its rules. Thus, while the Georgia PSC order describes why it designated Allied as an ETC effective April 26, 2010, it does not support Allied's waiver request, which requires a showing of unique circumstances that would warrant a deviation from the FCC's general rule and that such deviation would serve the public interest. On the contrary, as shown, Allied missed the FCC's filing deadlines because of its own actions. The Georgia PSC's orders provide no insight or analysis on this issue.

Accordingly, as demonstrated herein and in PST's Comments and Reply Comments, Allied has not demonstrated special circumstances that warrant a deviation from the FCC's general rule or that such deviation would serve the public interest. Therefore, Allied's request for a waiver should be denied.

Sincerely,



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